

January 17, 2025

VIA ECF

Honorable Valerie Figueredo
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: Application of B&C KB Holding GmbH for an Order to take Discovery Pursuant to 28 U.S.C. § 1782 from Goldberg Lindsay & Co. LLC d/b/a Lindsay Goldberg and Michael Dees, Case No. 1:22-mc-00180-LAK-VF

Dear Judge Figueredo:

Pursuant to the Court's order, dated December 18, 2024 (ECF No. 151), we write on behalf of all parties to provide a further joint update as to the status of discovery in the above-referenced matter.

I. Statement of Applicant B&C KB Holding GmbH ("B&C")

On December 4, 2024, counsel for Respondents represented without qualification that Respondents had substantially completed their document productions. On December 13, B&C wired US\$330,000 to the account identified by Respondents, pursuant to the So-Ordered Scheduling Stipulation. ECF No 148. On December 19, counsel for B&C took the deposition of Michael Dees. On or about December 26, B&C filed with the Austrian public prosecutor in aid of the subject criminal investigation: (i) a letter summarizing the relevance of certain Section 1782 evidence obtained from Respondents, (ii) a certified transcription of Mr. Dees' deposition testimony, and (iii) exhibits marked during the deposition. Pursuant to the Court's December 18 Order (ECF No. 151) and for reasons set out in B&C's separate letter being filed today, B&C has challenged a substantial number of Respondents' privilege assertions, reflected on their categorical privilege log. Additionally, yesterday, counsel for B&C provided to counsel for Respondents several representative email communications from Schur's files that involve Respondents' custodians but were not Respondents' productions, even though those documents contain previously agreed-upon search terms. B&C understands Respondents are looking into that issue.

II. Statement of Respondents Goldberg Lindsay & Co. LLC and Michael Dees¹

As noted in the prior update to the Court, on November 15, 2024, Respondents substantially completed their document production. As agreed between the parties, on December 16, Respondents provided a categorical privilege log to B&C. On December 19, B&C took the deposition of Mr. Dees.² On January 7, 2025, B&C sent questions and requests concerning Respondents' privilege log. On January 13, Respondents responded to those questions and

¹ Respondents do not agree with the sequence and substance of certain events in B&C's statement above, including the wire amount that was received, but will refrain from expending further time on these issues.

² On June 4, 2024, B&C took a 30(b)(6) deposition of an LG representative.

requests, and noted a few follow-up items. Following additional correspondence from B&C on January 15, Respondents requested a conference to further understand the issues raised by B&C. On January 16, B&C newly asserted that German, rather than U.S. law, governs whether the majority of documents on Respondents' log are privileged. During the parties' conference later in the day on January 16, counsel for Respondents noted that it did not believe B&C's position was correct and was not in a position to substantively address German law, but that because (i) the hearing in the DIS arbitration had begun on January 14 and was continuing through the end of next week, and (ii) there were several follow-up items and discussions that likely would help narrow and crystallize the issues in dispute, Respondents believed that agreeing to a short extension of the January 17, 2025 deadline for B&C to raise challenges to Respondents' privilege log set forth in the Court's prior order made sense. Counsel for B&C stated that it intended to file a submission today.

In order to provide additional time to work through and potentially narrow any issues in dispute, and to obtain client feedback, Respondents respectfully request that they be allowed to respond to B&C's submission by February 3, 2025. B&C does not oppose this request.

Respectfully submitted,

s/ Zachary D. Rosenbaum*
Zachary D. Rosenbaum
of KOBRE & KIM LLP

Counsel for Applicant

s/ Eric F. Leon
Eric F. Leon
of LATHAM & WATKINS LLP

Counsel for Respondents

cc: All counsel of record (via ECF)

* Electronic signature used with consent in accordance with Rule 8.5(b) of the Court's ECF Rules and Instructions.